

Agenda Item No. 3.1
For Agenda of 02.28.06



Tigard City Council Meeting Minutes

Date: January 24, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Nick Wilson
Absent: Councilor Tom Woodruff

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session Discuss Use of New Logo	<p>Business Card Design Review – Assistant to the City Manager Newton reviewed this agenda item. Council preferences for business cards included: Landscape orientation, heavier stock and white paper (not grey). The Core Values should not be printed on the back. Cards are due to be redone because of the City's website address change. Assistant to the City Manager Newton discussed printing costs and the Council consensus was to go without embossing.</p> <p>Assistant to the City Manager Newton said the police have a patch on their uniforms that immediately identifies them as police officers. They have requested to be allowed to use the new logo inside a shield outline. Deviation of the logo shape will be acceptable for the police but all other uses will be standardized. Police staff members had drawn up a few suggestions that were discussed by Council. A simple design was preferred. The police also want the shield design on their cars and will put together some suggestions, including the italic Garamond font for vehicle lettering. The City's standard logo will appear on other City vehicles.</p> <p>Forms will be revised inhouse.</p>	

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Executive Session	<p>The Council went into Executive Session at 7 p.m. to discuss exempt public records and potential litigation under ORS 192.660(2)(f) and (h).</p> <p>Executive Session concluded at 7:21 p.m.</p>	
1. Business Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:30 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Sherwood, and Wilson. Council Absent: Councilor Woodruff</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports</p> <p>1.5 Call to Council and Staff for Non-Agenda Items</p>	
2. Citizen Communication	<ul style="list-style-type: none"> ◦ Tigard Area Chamber of Commerce Executive Director Jeremy was present. Mr. Monlux reported that things are going well at the Chamber. He is finding that Tigard is a very hardworking, busy community with many issues. He feels people are looking forward to urban renewal. The Chamber is starting a nine-month program of leadership sessions designed to foster, empower and support future business leaders. Councilor Sherwood said she would like to see a partnership again between the City and the Chamber. Mayor Dirksen said the leadership program sounded interesting. Mr. Monlux will return to talk to the City Council about this plan. Councilor Harding asked whether the networking breakfasts are open to all. Mr. Monlux indicated that the Tigard Business Connection breakfasts are held on the 2nd and 4th Tuesdays and are open to everyone, as are their regular Thursday breakfast meetings. 	

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	<ul style="list-style-type: none"> ◦ John Frewing spoke about the Parks System Development Charges. He said he spoke at a council meeting one year ago saying he felt these charges were too low and needed to be revised annually. His concern was that the property values continue to rise and the SDC's need to keep pace. Mayor Dirksen asked Dan Plaza to comment and Mr. Plaza said SDC's are reviewed each January 1st. ◦ Dave George, of 13132 SW Ascension Drive in Tigard, representing his neighbors and himself. He said their concern is the lack of parks and open spaces. As a teacher he used open spaces as outdoor classrooms and feels that many people enjoy hiking, bird watching and observing wildlife. He is frustrated to see so many open areas disappearing due to development. <p>Mayor Dirksen said the City of Tigard shares his concern and would like for the City to have more local control over items such as density. He said this Council is looking for properties not only inside but outside of the Tigard city limits for future open spaces and parks.</p> <p>Councilor Wilson said he was disappointed in a recent public opinion poll that indicated people were not interested in spending much for parks. He suggested that Mr. George and others talk it up among their neighbors. He would like a bond measure for parks.</p>	
	<ul style="list-style-type: none"> ◦ Follow-up to Previous Citizen Communication: None 	No action.
3. Consent Agenda	3.1 Approve Council Minutes for December 20, 2006	<p>Motion by Councilor Sherwood, seconded by Councilor Wilson, to approve the Consent Agenda.</p> <p>The motion was approved</p>

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		<p>by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes</p>
4. Approve 2006 City Council Goals	<p>Mayor Dirksen reviewed the 2006 Goals in a PowerPoint presentation. A copy of this is available in the City Recorder's office.</p>	<p>Motion by Councilor Wilson, seconded by Councilor Sherwood, to approve the 2006 Council Goals.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes</p>
5. Report on Tigard Vision 2005 Accomplishments Update	<p>Risk Manager Mills gave a presentation on the Tigard Vision. This report is now available at the Library and on the city website. She felt it was appropriate that the Tigard Vision report followed the Council goals presentation because what people have asked for is being reflected in the Council's goals and it shows that the Council and City are listening to the public.</p>	Report/No action.
6. Update from Tualatin Riverkeepers about Activities in Tigard	<p>Waterwatch Coordinator Brian Wegener and TRK Board Member John Donnellson gave a presentation on current TRK activities in Tigard. They moved their headquarters to downtown Tigard this month. For 16 years TRK has been a leader in improving water quality and protecting and restoring the Tualatin River system. They hold annual river clean-ups, help improve and restore riparian habitat along Fanno Creek, the Brown Natural Area and along the Tualatin River. Their Paddler's Guide will be republished next month. The Tigard Community Development Department is contributing to TRK's reprint of the</p>	Report/No action

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	Field Guide to Erosion Prevention and Sediment Control, a publication for contractors and those who live near a site under construction. Mr. Wegener thanked the City for its support. The Tualatin Riverkeepers annual meeting will be held from 1:30-4:00 on Sunday, January 29 th at the Tigard Library.	
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7. Consider Tualatin River Bicycle and Pedestrian Bridge Funding	<p>(Note Items were not discussed in order at the January 24, 2006 Council Meeting.)</p> <p>Parks Manager Dan Plaza reported that the latest information on the Tualatin River Bicycle and Pedestrian Bridge shows costs are up \$1.5 million. Tigard's share is \$592,578. The City of Tualatin's share is \$412,228, and Durham's share is \$25,764. Clean Water Services has committed to spend \$600,000 and will pay for all of the cost of running pipes under the bridge. Metro will not be participating in this project.</p> <p>Tualatin approved an Intergovernmental Agreement at their City Council meeting last week and Durham just approved it tonight. ODOT would like the City of Tigard to commit to their portion by January 31, 2006. Staff will also be preparing a budget amendment for Council to approve the additional cost.</p> <p>Parks Manager Dan Plaza went over the reasons for the higher project cost. The original project was going to be built of wood but the National Marine Fisheries Commission had concerns about the wood preservative being harmful to fish in the river. The bridge is now designed of steel and concrete. The ADA requirements for the ramps have added costs and the square footage is 20% higher. They had planned to use a crane to lift it into place but there are only two cranes in Oregon big enough and this is not a priority project for them. Now we have to build a work bridge at water level that will need to be torn down when the project bridge is completed. Steel costs have risen. Another issue is that there are currently 30 bridge projects ready to be bid in Portland. The design complexity of the 380' span and necessary environmental permitting also raise the cost.</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Wilson, to approve additional funds needed for the bridge, and for confirmation of this approval to be conveyed by letter to the City of Tualatin.</p> <p>After discussion, Councilor Wilson amended the motion to state that Tigard's share of the project is now \$592,578 and a budget amendment will be considered by the City Council on February 14, 2006.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes</p>

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	<p>The project goes to bid on February 2 with a bid opening on February 23rd. Construction will occur from April-December, 2006, with projected opening in January 2007.</p> <p>Metro Councilor Carl Hosticka noted that Metro was never asked to participate in any formal fashion. There are potential opportunities for grant monies but probably not anything that can come to fruition in the next few weeks. Councilor Hosticka asked that staff contact him and said he will consider any grant request submitted.</p> <p>In response to a concern from City Councilor Wilson about learning of the cost overrun at this time, Tualatin Community Development Director Hennon, Tualatin City Manager Wheeler and Tigard Parks Manager Plaza outlined the circumstances of the cost increases.</p> <p>There was discussion about where the additional funds would come from: \$200,000 would come from the MSTIP and the balance from park SDC's.</p> <p>In response to a question from Councilor Sherwood about whether this would affect the Greenburg Road project, Mayor Dirksen said he understands that these projects are funded from separate sources.</p> <p>During discussion, City Council members expressed support for going forward with the project. Any money left over will be refunded to the City.</p>	
<p>8. Metro Presentation - Proposed Nov. 2006 Bond Measure to Preserve Natural Areas, Improve Water Quality, and Protect Fish and Wildlife Habitat</p>	<p>Metro President David Bragdon and Metro Councilor Carl Hosticka gave a presentation on their proposed bond measure for the November 2006 ballot which will provide funding to purchase natural areas in the region for parks and open spaces. They are going to the various city councils in the area to let them know what they are doing and to hear any concerns the cities may have. They have scheduled public hearings to obtain input. President Bragdon felt that the need for this measure was supported tonight by the items listed on the Council's agenda and the comments made during citizen communication.</p>	

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	<p>Metro's 1995 Bond Measure helped Tigard by adding 8 acres to Cook Park, 2 acres along Fern Street and trail construction and right-of-way on the Fanno Creek Greenway. This new measure will help them continue targeting regional natural areas by acquisition, improvements and making opportunity grants available to "re-nature" neighborhoods. Tigard's share would be about \$1.3 million. The Fanno Creek Greenway and Tualatin River Greenway are included among the areas targeted by a blue ribbon committee.</p> <p>Councilor Harding expressed concern about the lack of open space within the urban growth boundary. Citizens are asking for help in getting more greenspaces and stopping development's encroachment.</p> <p>In response to Councilor Harding's concern about the high cost of property, Metro Councilor Hosticka said local efforts could be helped by using matching funds. He noted that the corridors are within the Urban Growth Boundary.</p> <p>Councilor Harding asked if Metro could take away some of the density requirements to help our citizens.</p> <p>Councilor Wilson said he appreciated being asked for input in advance. He thought the measure would be popular with people but noted that Metro's map shows some areas that are "pretty far flung" and not very accessible to people. He said those areas are attractive but he hears all the time that people want to be close to natural areas. Each development brings out angry neighbors who want more parks and open space. He asked if more areas could be added inside the Urban Growth Boundary because they contribute to how people live.</p> <p>Mayor Dirksen suggested adjusting the balance back towards the neighborhoods. He felt an important criterion for land selection is that the areas be close to people. He said that Metro, by choosing to run this regional bond measure, may be precluding Tigard's own bond measure to help ourselves. He asked if Mr.</p>	

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	Bragdon and Mr. Hosticka could stay because later in the meeting there would be a discussion on a list prepared by the Tigard Parks and Recreation Board of properties they want Metro to consider putting in their bond measure. Mr. Hosticka said we can acquire greenway properties with regional funds. Mayor Dirksen will forward the list to him.	
9. Consider a Resolution Approving the Submittal of the City of Tigard's Proposed Greenspace and Trail Projects for Inclusion in Metro's Natural Areas Bond Measure 2006	Parks Manager Dan Plaza described the process used by the Parks and Recreation Board to identify potential greenways, passive and active parks to be included in Metro's bond measure. The properties were 90% citizen and 10% staff identified. They did a willing-seller analysis and several property owners who would consider selling property for parks were identified. 17 acres of land, worth \$3.6 million were donated. By February 14 th 2006, a more completed list will be available.. Mr. Plaza will forward this list to Metro.	Motion by Councilor Sherwood, seconded by Councilor Wilson to approve Resolution No. 06-03. The motion was approved by a unanimous vote of Council present. Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes
10. Public Hearing (Quasi Judicial): Refuge at Fanno Creek <i>(Site Development Review SDR 200500002/ Sensitive Lands Review SLR 2005-00017, 18, 19 & 20/ Adjustment VAR2005-00055 & 56)</i>	Mayor Dirksen opened the Public Hearing. City Attorney Ramis read the procedures and described the process. He read three options that the Council may consider tonight: 1) decide to not re-hear the matter; 2) agree that there is a fatal flaw in the design, approve with the secondary access deleted; and 3) not approve. Attorney Ramis contacted the railroad and they have not had enough time to review the issue. City Attorney Ramis asked the Council if they'd had ex-parte contact or if there were any other potential conflicts. Mayor Dirksen reported that he had viewed the property from North Dakota Street. He asked if they were familiar with the Council packet materials. He then asked if there were any challenges from the audience. There were none. He stated the order of testimony: (1) applicant, (2) those opposed, and then (3) applicant rebuttal. The hearing focus is narrow –	Motion by Councilor Wilson, seconded by Councilor Sherwood, that the Council uphold the hearings officer decision and decline to re-open the case. The motion was approved by a 3-1 vote of Council present. Mayor Dirksen Yes Councilor Harding No Councilor Sherwood Yes Councilor Wilson Yes

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	<p>is there access across the railroad tracks for the secondary access?</p> <p>Dick Bewersdorff (City of Tigard Planning) stated that the secondary access is not a requirement of the project.</p> <p>Mayor Dirksen said it was unusual, bordering on unique, for the City Council to review a hearings officer decision and that no one should assume they will reopen future developments. He reminded everyone present that the testimony is limited to one issue. No other testimony will be allowed.</p> <p>Public Testimony:</p> <ul style="list-style-type: none"> • Bob Van Brocklin, 900 SW Fifth, Suite 2600, Portland, OR. 97204 (representing the Applicant). <p>Mr. Van Brocklin requested that the City of Tigard decline to exercise to review and allow the hearings officer decision to stand. He said this case went before a hearings officer who is an experienced land-use attorney and who, after considering all the evidence, approved it. Mr. Van Brocklin said there is considerable evidence to conclude that a 1965 Bargain & Sale Deed granted public right to cross the railroad property. He said the issue was raised a few weeks ago by John Frewing but Mr. Frewing provided no new evidence. He said that practical interpretation of aerial photographs shows 60 years of easement in use, since at least 1936. Practical evidence is historical use. The county's own tax map shows this easement. There exists an underpass that is designed to get people from one side of the tracks to the other. In building a trestle the railroad acknowledges that there is access. The railroad has not objected to this easement. They are not here tonight and they have not objected in the course of the hearings. He requested that his letter of January 26, 2006 be</p>	


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	<p>placed into the record.</p> <ul style="list-style-type: none"> • Matt Sprague, 9020 SW Washington Square Drive, Tigard, Oregon 97223(representing the Applicant) <p>Mr. Sprague displayed maps and photos of the property in question. He showed a tax lot map showing a dotted line and the word "easement". He had a photograph from 1936 showing a raised grade. A July, 1953 photograph showed a raised grade but no trestle yet. In 1968, the aerial photograph showed Cascade Boulevard and the trestle in place. In a 1977 aerial photo there is access to Cascade Boulevard as well as in a 1983 photograph. He brought in an enlarged copy of page 615 of the Bargain & Sale Deed.</p> <ul style="list-style-type: none"> • Sue Beilke, 11755 SW 114th, Tigard, OR 97223 <p>Ms. Beilke said she wanted the Council to review this matter because the Council is representing the people of Tigard and should protect the public health, safety and general welfare. She cited Section 18.705 of the Community Development Code – Access, Egress and Circulation. Attorney Ramis reminded her that the focus of this hearing is limited and she cannot address other issues. She then stated that the Friends of Summer Creek agrees with Mr. Frewing that there is not an easement. She also noted that the words, "Condominium Project" were shown on the agenda; this is an old project title.</p> <ul style="list-style-type: none"> • John Frewing, 7110 SW Lola Lane, Tigard, OR 97223 <p>Mr. Frewing stated that two weeks ago he asked the Council to review this application. He said he has visited the property and there is a ditch at the trestle now. He said the applicants are required to show an easement</p>	

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	<p>and they have not. He read the property descriptions of Parcel #1 and Parcel #2 on the 1965 Sale Deed while pointing to the drawing supplied by the applicant. He indicated where the property lines are in reference to the bridge and thinks there is no evidence that there is an easement through the railroad bridge. He said that deleting this access changes the application substantially. He asserted the proposed development application should be thrown out and started over. He checked on why the railroad isn't here tonight and wasn't here before. The City of Tigard sent out a notice to affected property owners listed on the Washington County tax rolls. The railroad is not on this list because they are taxed by the state, not the county. He said representatives from the railroad have not addressed this matter and that there is no easement. Mr. Frewing feels the application should be denied.</p> <ul style="list-style-type: none"> • Gretchen Buehner, 13249 SW 136th Place, Tigard, OR 97223 <p>Ms. Buehner advised that she has researched old maps and deeds and finds that easements are not always labeled as such. They are sometimes referred to as private driveways. An easement cannot be terminated without agreement among all involved parties.</p> <p>Applicant Rebuttal</p> <ul style="list-style-type: none"> • Matt Sprague asked that the Council to avoid getting bogged down in legal descriptions. The two parcels can use the easement. In 1907 the property was sold to the railroad and at that time an easement was reserved for the property. A railroad overpass was installed to provide access. The property owners didn't install the overpass, the railroad did. • Greg Corbin, 900 SW Fifth, Suite 2600, Portland, OR 97204 	

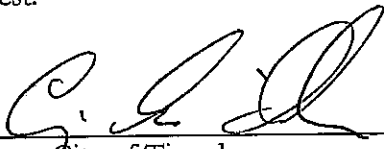
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	<p>Mr. Corbin said there isn't anything new in the record. The survey map was presented at an earlier meeting. He said the Council is being asked to hear the same argument a second time. He said could not follow Mr. Frewing's description and said it would be difficult for anyone to follow. As to whether or not the deed recognizes an easement, the easement need not be in the parcels that are being conveyed. The easement may be in another location. The documents could be written more clearly. The fact that the deed describes two different properties is irrelevant. The property being conveyed has rights. The railroad has been contacted by the City and the fact that the railroad has made no comment does not mean that there is no easement.</p> <p>Council Discussion</p> <p>Councilor Harding said it would be nice if the railroad were represented at this meeting. There is no new evidence but there is still a question in her mind. The fact that the railroad is not here doesn't prove the existence of an easement.</p> <p>Mr. Corbin said all of this evidence was before the Hearings Officer when he made his decision. The evidence was substantial enough for him to make that decision.</p> <p>Mr. Sprague said the trestle is indicative that there is an easement in that location. The railroad would only have built it to allow people to cross under. By building a trestle, the railroad acknowledges that there is access. The railroad has not objected to this easement.</p> <p>Mr. Frewing stated that the applicant has not produced anything saying that the railroad gave anyone the easement.</p> <p>Councilor Wilson said that the adjacent property owners could not convey the railroad</p>	

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	<p>easement because it was not theirs to convey; however, this does not imply that there is no easement. He said he would vote not to reopen the case.</p> <p>Attorney Ramis said Mr. Frewing does make a point that the property deeds do not show access but it is an overstatement to say there is no evidence of the right to cross. There is a great deal of indirect evidence.</p> <p>Councilor Harding said she would rather not see the second access.</p> <p>Mayor Dirksen said he came to the meeting tonight ready to approve striking the second access but the testimony convinces him that there is a historical easement. If there is an access concern in the future, the dispute will be between the railroad and the applicant.</p>	
<p>11. Consider Application for the Gang Resistance Education and Awareness Training (GREAT) Grant</p>	<p>The Police Department requests approval from the City Council authorizing them to apply for a grant to that has the potential to make \$208,000 available to the GREAT program.</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Harding to approve application for this grant.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes</p>

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Adjournment	11:24 p.m.	<p>Motion by Councilor Sherwood, seconded by Councilor Harding , to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p> Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes </p>


Catherine Wheatley, City Recorder

Attest:



Mayor, City of Tigard
Date: 2/28/06

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